

APPEAL NO. 040566
FILED MAY 3, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 11, 2004. The hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the first and second quarters. The claimant appealed the determination that he is not entitled to SIBs for the first and second quarters. There is no response from the respondent (carrier) in the appeal file.

DECISION

Finding sufficient evidence to support the hearing officer's decision and no reversible error in the record, we affirm the decision and order of the hearing officer.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The parties stipulated that the claimant sustained a compensable injury on _____, and that the claimant has a 15% impairment rating. At issue is whether the claimant made a good faith effort to obtain employment commensurate with his ability to work during the qualifying periods for the first and second quarters. It was not disputed that the claimant had an ability to work. The hearing officer determined that, in both quarters, the claimant's unemployment was a direct result of his impairment, that the claimant failed to document a job search in every week of the qualifying period, did not conduct a well-structured job search plan, and did not make a good faith effort to obtain employment commensurate with his ability to work. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established (Garza v. Commercial Insurance Co. of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)). Nothing in our review of the record reveals that the hearing officer's good faith determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Thus, no sound basis exists for us to reverse the determination that the claimant is not entitled to SIBs for the first and second quarters on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **LIBERTY INSURANCE CORPORATION** and the name and address of its registered agent for service of process is

**CT CORPORATION
350 NORTH ST. PAUL STREET, SUITE 2900
DALLAS, TEXAS 75201.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Elaine M. Chaney
Appeals Judge